

立法會
Legislative Council

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House Committee of the Legislative Council

**Minutes of the 17th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 9 March 2007**

Members present :

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon David LI Kwok-po, GBS, JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, GBS, JP
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, JP

Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon LI Kwok-ying, MH, JP
Dr Hon Joseph LEE Kok-long, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon MA Lik, GBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Albert Jinghan CHENG
Hon KWONG Chi-kin
Hon TAM Heung-man

Members absent :

Hon James TO Kun-sun
Hon LAU Chin-shek, JP
Hon CHIM Pui-chung

Clerk in attendance :

Mrs Vivian KAM Clerk to the House Committee

Staff in attendance :

Mr Ricky C C FUNG, JP	Secretary General
Mr Arthur CHEUNG	Acting Legal Adviser
Ms Pauline NG	Assistant Secretary General 1
Mrs Justina LAM	Assistant Secretary General 3
Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mrs Constance LI	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer

Miss Becky YU	Chief Council Secretary (1)1
Ms Anita SIT	Chief Council Secretary (1)4
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Mr Timothy TSO	Assistant Legal Adviser 2
Miss Kitty CHENG	Assistant Legal Adviser 5
Mr KAU Kin-wah	Assistant Legal Adviser 6
Miss Monna LAI	Assistant Legal Adviser 7
Ms Amy YU	Senior Council Secretary (2)3

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I. Confirmation of the minutes of the 16th meeting held on 2 March 2007
(LC Paper No. CB(2) 1232/06-07)

The minutes were confirmed.

II. Matters arising

Report by the Chairman on her meeting with the Chief Secretary for Administration

2. The Chairman said that there was nothing special to report.

III. Business arising from previous Council meetings

(a) Legal Service Division report on bills referred to the House Committee in accordance with Rule 54(4)

Mainland Judgments (Reciprocal Enforcement) Bill
(LC Paper No. LS 46/06-07)

3. The Chairman said that the Bill sought to make provisions for the enforcement in Hong Kong of judgments in civil or commercial matters that were given in the Mainland, and for facilitating the enforcement in the Mainland of judgments in civil or commercial matters that were given in Hong Kong.

4. The Chairman further said that the Panel on Administration of Justice and Legal Services had from time to time been consulted and briefed on the progress of the proposed arrangement.

5. The Chairman added that the Legal Service Division recommended that a Bills Committee be formed to study the Bill.

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6. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Mr Martin LEE, Ms Margaret NG and Ms Miriam LAU.

7. The Chairman said that as there were vacant slots, the Bills Committee could commence work immediately.

(b) **Legal Service Division report on subsidiary legislation gazetted on 28 February 2007 and tabled in Council on 7 March 2007**
(LC Paper No. LS 44/06-07)

8. The Chairman said that two items of subsidiary legislation were gazetted on 28 February 2007 and tabled in Council on 7 March 2007.

9. Members did not raise any queries on these items of subsidiary legislation.

10. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 28 March 2007.

(c) **Legal Service Division report on subsidiary legislation gazetted on 2 March 2007 and tabled in Council on 7 March 2007**
(LC Paper No. LS 45/06-07)

11. The Chairman said that two items of subsidiary legislation were gazetted on 2 March 2007 and tabled in Council on 7 March 2007.

12. Members did not raise any queries on these items of subsidiary legislation.

13. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 28 March 2007.

IV. Report of Bills Committees and subcommittees

Progress report of the Subcommittee on West Kowloon Cultural District Development
(LC Paper No. CB(1) 1085/06-07)

14. Mr Alan LEONG, Chairman of the Subcommittee, referred Members to the Subcommittee's progress report and its position statement setting out its views on the Government's current approach in taking forward the West Kowloon Cultural District (WKCD) project. Mr LEONG said that since the Chief Secretary for Administration (CS)'s announcement on 21 February 2006 of the Administration's decision not to pursue WKCD under the Invitation for

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Proposal process, the Subcommittee had held five meetings to discuss with the Administration the new approach in taking forward the WKCD project. The Subcommittee had been briefed by the Administration on the work of the Consultative Committee on the Core Arts and Cultural Facilities of the West Kowloon Cultural District (Consultative Committee) and its three Advisory Groups set up in April 2006. The Subcommittee had also met with deputations to receive their views on the reports published by two of the Advisory Groups and how the WKCD project should be taken forward.

15. Mr LEONG further said that the Consultative Committee would soon deliberate on the recommendations of the three Advisory Groups and submit its recommendations to the Chief Executive (CE). The Subcommittee noted with concern that the Consultative Committee had not conducted any further consultation on the recommendations of two of the Advisory Groups. Some organisations had expressed reservation about or even objection to the recommendations of the Advisory Groups, in particular about the recommendation of the Museums Advisory Group for establishing a Museum Plus. The Subcommittee was concerned that without public consultation, the recommendations to be made by the Consultative Committee to CE might not be supported by the public and the relevant sectors. The Subcommittee, therefore, considered it necessary to issue a position statement setting out its views on the Government's current approach in taking forward the WKCD project before the Consultative Committee arrived at its conclusive findings.

16. Mr LEONG then highlighted the following in the position statement of the Subcommittee -

- (a) the Administration should establish as early as possible a standing mechanism to enable public involvement in a structured manner in the planning of WKCD;
- (b) the Administration should establish an overseeing authority as soon as possible to steer the way forward for WKCD, including how WKCD would complement the overall development of Hong Kong and how it would be strategically placed to catalyse the realisation of a long-term arts and cultural vision for Hong Kong;
- (c) to facilitate public discussion, the Administration should provide the outline concept plans for the 40-hectare West Kowloon Reclamation site, in particular about the intensity of commercial and residential development and open space for public enjoyment; and
- (d) the Administration should provide a detailed work plan with time frame on WKCD as soon as possible.

V. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 1233/06-07)

17. The Chairman said that there were 13 Bills Committees and six subcommittees under the House Committee in action.

VI. Report of the delegation of the Panel on Environmental Affairs to study overseas experience in air quality control, management of municipal solid waste, renewable energy and total water management

(LC Papers No. CB(1) 1051/06-07 and CB(1) 1052/06-07)

18. Ms Emily LAU, member of the delegation, referred members to the Report of the delegation of the Panel. Ms LAU said that the information obtained from the visit had provided useful reference on air quality control, management of municipal solid waste, renewable energy and total water management in Hong Kong. A copy of the Report had been forwarded to the Administration for consideration.

19. Ms LAU further said that to enable Members to express their views on the Report and the Administration to provide its response, the Panel had agreed to request the House Committee for allocation of a debate slot to Miss CHOY So-yuk, Head of the delegation, under House Rule 14A(h) to move a motion on the Report for debate at the Council meeting on 25 April 2007. Should the House Committee accede to the Panel's request, the debate slot would not be counted as Miss CHOY's own slot. The Panel also suggested that there should only be one other debate on a Member's motion with no legislative effect for that Council meeting.

20. The Chairman proposed that a debate slot be allocated to Miss CHOY So-yuk to move a motion on the Report at the Council meeting on 25 April 2007, and that there should only be one other debate on a Member's motion with no legislative effect for that Council meeting. Members agreed.

VII. Report of the Panel on Education on its proposal for a select committee to be appointed to inquire into matters concerning infringement with academic freedom and institutional autonomy

(LC Paper No. CB(2) 1237/06-07)

21. Mr Jasper TSANG, Chairman of the Panel, explained the deliberations of the Panel regarding its proposal for the appointment of a select committee to inquire into matters concerning infringement with academic freedom and institutional autonomy. Mr TSANG said that the Panel held a special meeting on 28 February 2007 to collect information concerning the allegations made by

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Professor Bernard LUK Hung-kay, Vice President of The Hong Kong Institute of Education (HKIEd), on interference by Government officials with the academic freedom and institutional autonomy of HKIEd. Apart from Professor LUK, Professor Paul Morris, President of HKIEd, three other academics associated with HKIEd, and representatives from three organisations also attended the meeting. The Secretary for Education and Manpower (SEM), the then Permanent Secretary for Education and Manpower (PSEM) and the University Grants Council (UGC) declined the invitation to attend the meeting for the reason that the CE in Council had appointed a Commission of Inquiry (the Commission) to investigate into the matter.

22. Mr TSANG further said that the academics and representatives of the organizations attending the meeting had quoted a number of cases to substantiate their claim that some Government officials had been making attempts to suppress dissenting voices of staff of HKIEd and undermine HKIEd's development. The attending academics also quoted cases of alleged Government interference with the academic freedom in other tertiary institutions. They declined to substantiate their allegations for the reason that they were not covered by the protection and immunity provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382).

23. Mr TSANG recapitulated that to take forward the matter, some members were of the view that LegCo should appoint a select committee to find out the truth. Some other members, however, considered that LegCo should await the completion of inquiry by the Commission and study the Commission's report before deciding on the further actions to be taken.

24. Mr TSANG added that the Panel voted on a motion proposed by Dr YEUNG Sum that a select committee be appointed by LegCo to inquire into the matter. Eight members voted for the motion, three members against the motion and one member abstained. As the motion was carried, the Panel agreed to seek the House Committee's support for its proposal.

25. Mr CHEUNG Man-kwong said that the terms of reference of the Commission covered only the three allegations made by Professor LUK in his letter published on the intranet of HKIEd. As cases of alleged Government interference with the academic freedom in other tertiary institutions had been revealed by the academics attending the special meeting of the Panel, the terms of reference of the Commission had become too narrow to enable a full scale inquiry into the allegations made. In contrast, the terms of reference of the select committee proposed in Dr YEUNG Sum's motion were wider and could cover cases relating to other tertiary institutions. Mr CHEUNG considered that there would be no overlap in scope between the terms of reference of the Commission and those of the proposed select committee. Mr CHEUNG further said that all the academics attending the special meeting supported the conduct of inquiry by LegCo. They pointed out that many academics would

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stand ready to provide information if given the legal protection. Moreover, as SEM and the then PSEM had refused to attend the special meeting, a select committee appointed by LegCo could exercise the powers to summons them to provide information as witnesses. Mr CHEUNG added that there were past cases in which LegCo had conducted inquiry in parallel with those undertaken by panels or commissions appointed by the Government. He saw no reason why the same could not be done in respect of the matter in question.

26. Dr Fernando CHEUNG agreed with Mr CHEUNG Man-kwong's views and expressed support for the appointment of a select committee. Dr CHEUNG said that he was an elected member of the Council of the Polytechnic University of Hong Kong. The allegations concerning interference by Government officials with the academic freedom and institutional autonomy were serious. Unless the truth was revealed, the role of universities in reflecting the reality and making independent and critical comments on issues and situations in society would be undermined. The academics attending the special meeting had quoted three concrete cases of attempts by Government officials to interfere with academic freedom, and it was incumbent upon LegCo to thoroughly investigate into the matter to allay public concern. Given the different focus of concern, Dr CHEUNG did not see any conflict between the proposed select committee and the Commission if inquiry was conducted in parallel.

27. Mr Tommy CHEUNG said that Members belonging to the Liberal Party agreed that the allegations made by the attending academics at the special meeting were serious. Since the Administration had yet to respond to the allegations, Members belonging to the Liberal Party did not consider that there was urgency for LegCo to appoint a select committee immediately to look into the matter. They considered it more appropriate to await the completion of inquiry by the Commission, whereupon Members could decide on the need for further actions to be taken.

28. Dr YEUNG Sum said that according to a poll conducted by the Democratic Party after the appointment of the Commission by the Administration, some 50% of the respondents considered that LegCo should look into the allegations, whereas only some 20% of the respondents held the view that the inquiry should be conducted by the Administration. These findings showed clearly the public expectation on LegCo to monitor the work of the Administration. The matter in question was concerned not only with HKIED but also with other universities. Any delay on the part of LegCo in investigating the matter would fall short of public expectation. Dr YEUNG also echoed Mr CHEUNG Man-kwong's view that the terms of reference of the Commission were too narrow and could not cover the alleged cases of interference relating to other tertiary institutions. As academic freedom was a core value of Hong Kong, Dr YEUNG urged Members to support the proposal for appointing a select committee to investigate into the matter.

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29. Mr LEUNG Kwok-hung expressed regret about the reported statement by CE that the allegations were related to the upcoming CE election. Mr LEUNG said that since CE had already expressed his stance on the matter, the credibility and impartiality of the Commission appointed by him were in doubt. Mr LEUNG further opined that it was unusual that SEM, being a cabinet member, should threaten to take legal action against a member of the public and yet the Administration had not taken any action in response to such acts of SEM. Mr LEUNG further said that as the Government was not elected by universal suffrage, it was all the more important for LegCo to discharge its duty to monitor the work of the Government closely. He was of the view that LegCo should appoint a select committee to investigate into the matter in parallel with the Commission. Mr LEUNG added that to address concern about overlap of work, the select committee could investigate into cases which were outside the scope of the Commission's inquiry.

30. Dr KWOK Ka-ki concurred with Mr LEUNG Kwok-hung's view on the low credibility of the Commission. Dr KWOK said that the non-attendance of the Government officials concerned at the special meeting to respond to the allegations should not be used as an excuse for not supporting the appointment of the select committee. Quoting past cases where LegCo had looked into issues of public concern in parallel with the commissions of inquiry or panels of investigation appointed by the Administration, Dr KWOK opined that if LegCo did not do the same for the matter in question, it would fall short of public expectation.

31. Ms Emily LAU expressed support for the appointment of a select committee as the cases revealed had already gone beyond the terms of reference of the Commission. Ms LAU said that she failed to see why Members should await the completion of inquiry by the Commission as its report would not cover the allegations concerning other universities. Since Members agreed that the allegations were serious, and all the academics and representatives of the organisations attending the special meeting called on LegCo to investigate the matter, she appealed to Members to support the appointment of a select committee.

32. Ms Audrey EU expressed support for the appointment of a select committee. She concurred with Ms Emily LAU that there was no point in waiting for the completion of inquiry by the Commission as some of the allegations were beyond its terms of reference. Ms EU pointed out that given the seriousness and extensiveness of the allegations, it was incumbent upon LegCo to respond to the public call for a thorough investigation into the matter by appointing a select committee.

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33. Ms EU further said that the academics attending the special meeting alleged that Government interference with academic freedom and institutional autonomy was not merely with individual cases but had become a structural problem. The Panel was told that the majority of the council members of three publicly-funded tertiary institutions were appointed by the Administration and they were not keen in protecting academic freedom. The Panel was also given to understand that the contracts of projects commissioned by the Administration often included unreasonably harsh terms to the extent of infringing upon the academic freedom of the successful bidders. For instance, the property right of the materials for such projects and programmes belonged to the Government, and such materials could not be published without the consent of the Education and Manpower Bureau (EMB). The agreement of EMB to the content of the programmes had to be secured, and the conclusions of projects had to be modified to meet EMB's wishes, or else outstanding payment for the projects would be withheld. Moreover, EMB requested such programmes to be video-taped. This had affected the participation of students who were reluctant to be video-taped when criticizing Government policies.

34. Ms EU added that the academics attending the special meeting indicated that they were willing to provide detailed information concerning the allegations if given the legal immunity. In view of the strong prima facie evidence provided by the academics, LegCo should not delay in commencing the investigation. If the inquiry was conducted only after the Commission's report was issued, it would be summer recess and Members would not have sufficient time to go through the due process and complete the inquiry before the end of the current term. Moreover, the timing would coincide with the last session of the term during which a large number of bills would normally be introduced and Members would be busy with their scrutiny.

35. Mr TAM Yiu-chung stated the stance of Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB). Mr TAM said that given that the Commission had undertaken to conduct its investigation with a high degree of transparency and would provide a report to CE within four months, Members of DAB considered it an appropriate and reasonable approach to await the completion of the inquiry by the Commission before deciding on further actions to be taken. They considered it unnecessary for LegCo to conduct a parallel investigation at the present stage.

36. Mr TAM further said that Members should respect each other for having different views on issues. Members should not adopt a patronizing attitude towards colleagues who held different views.

37. Mrs Selina CHOW agreed that the allegations were serious and should be dealt with in a serious manner. To this end, the Commission had been appointed to ascertain the facts relevant to the allegations concerning HKIED. Any persons could provide relevant information to the Commission, and she

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could not see why the Commission, with the efforts of so many lawyers, could not find out the truth. Mrs CHOW pointed out that the opening of the new airport at Chek Lap Kok was the only case where LegCo conducted a parallel inquiry with a commission of inquiry appointed under the Commissions of Inquiry Ordinance (Cap. 86). She further commented that the terms of reference of the proposed select committee were too wide. As the foremost concern of the public was to find out the truth about the allegations concerning HKIEd, the general issue of academic freedom and institutional autonomy should be dealt with separately. In this regard, the Panel had already scheduled a special meeting in April 2007 to enable other persons and organizations to come forward to provide information. Mrs CHOW considered that, in the light of the above and given the resource implications in appointing a select committee, LegCo should wait for the Commission's report before deciding on further actions to be taken.

38. Mr LEUNG Yiu-chung said that the matter in question was not concerned solely with HKIEd; it was only that HKIEd was the first to disclose the Administration's attempts of interference. With more academics coming forward to provide information about other universities, the terms of reference of the Commission had become too narrow to cover the relevant cases. There was an urgent need for LegCo to appoint a select committee with wider terms of reference to investigate into the matter. Mr LEUNG further opined that the issue at stake was not merely institutional autonomy but whether the Administration had suppressed freedom of speech and how it had exercised its authority. To fulfil its role in monitoring the work of the Administration, LegCo should conduct an independent and comprehensive inquiry expeditiously and should not drag its feet on the matter.

39. Mr Frederick FUNG echoed the view that the terms of reference of the Commission, which focused only on the three specific allegations concerning HKIEd, were too narrow to investigate even all the allegations involving HKIEd. He was supportive of the wider scope of work of the proposed select committee which would cover other universities. Mr FUNG further opined that an inquiry conducted by LegCo could help the Administration to clarify the allegations which were serious. He concurred with Ms Audrey EU's view that LegCo could not afford to wait for the completion of the inquiry by the Commission as there would then be insufficient time for Members to conduct a comprehensive inquiry.

40. Mr CHEUNG Man-kwong said that as the Commission's report would not cover the allegations concerning other universities, he failed to understand why some Members were of the view that LegCo should wait for the completion of the Commission's inquiry. He was apprehensive that the reason for awaiting the completion of the inquiry was to avoid adverse impact on the impending CE election. Mr CHEUNG was worried that the independent role of LegCo in monitoring the work of the Administration would be compromised

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should it refuse to appoint a select committee to inquire into the matter right away. In his view, the respective inquiries by the Commission and LegCo would have different scopes of work and would complement each other. Moreover, Mr CHEUNG disagreed that the terms of reference of the proposed select committee were too wide. He pointed out that the focus of inquiry by the proposed select committee would still be academic freedom and institutional autonomy, with the scope of investigation being expanded to cover other tertiary institutions in addition to HKIEd.

41. Ms Audrey EU pointed out that apart from the inquiry into the operation of the new airport, there were other cases where LegCo concurrently inquired into matters under investigation by panels/committees/commissions appointed by the Administration, for the reason that public interest was at stake. For instance, in the case of the Select Committee on Building Problems of Public Housing Units, LegCo's inquiry was conducted while criminal proceedings were underway. For these past cases, the terms of reference of the relevant select committees and of the panels/committees/commissions appointed by the Administration were largely the same. In contrast, the terms of reference of the proposed select committee were different from those of the Commission. Ms EU reiterated that ample evidence had been provided by the academics concerning Government interference with the academic freedom and institutional autonomy of other universities. In the circumstances, she considered the appointment of a select committee by LegCo well justified.

42. Dr David LI said that the matter under consideration was unrelated to the impending CE election. Since the CE election would be held on 25 March 2007, the LegCo select committee, if appointed, would commence work only after the election.

43. Mr Martin LEE pointed out that the terms of reference of the Commission were confined to the three specific allegations. Even if persons were willing to reveal other cases and provide information, the Commission, in consideration of the time specified to complete the inquiry, might refuse to admit such evidence which fell outside its scope of work, notwithstanding the principle of similar fact evidence in criminal trials. Mr LEE further said that given the serious nature of the allegations and that a number of academics had indicated that they would be willing to provide information if given the legal immunity, LegCo should provide an opportunity for them to do so. Mr LEE also considered that there was no point in waiting for the completion of the inquiry by the Commission as its report would not cover cases involving other universities. Mr LEE further said that should Members adopt a wait-and-see attitude, similar attempts of interference by Government officials might continue in the interim.

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44. Mr Abraham SHEK said that he was one of the three members who voted against the motion on the proposed appointment of a select committee at the special meeting of the Panel. Mr SHEK supported the view that LegCo should await the completion of the inquiry by the Commission before deciding on the further actions to be taken. Mr SHEK stressed that the non-appointment by LegCo of a select committee for the time being did not mean that Members did not support academic freedom. Indeed, the Panel had already scheduled a meeting in April 2007 to receive views and information from persons and organizations concerning other tertiary institutions. While appreciating the concern of academics about not having legal immunity in providing information, Mr SHEK opined that if the information provided was nothing but the truth, the academics should have the courage to speak out irrespective of the consequences. If necessary, the academics could choose not to disclose the names of the relevant persons when providing information.

45. Mr LEE Cheuk-yan expressed support for the appointment of a select committee. Mr LEE said that it would be unfair to request the academics to speak out irrespective of the consequences, while LegCo Members could invoke the necessary powers to provide them with legal immunity but yet refused to do so. Mr LEE further pointed out that the holding of the Panel meeting in April should not be taken as an inquiry. The Panel had no authority to summons witnesses to provide evidence, and persons attending the Panel meeting would not be legally protected. Given that SEM and the then PSEM had refused to attend the special meeting to respond to the allegations, the only way to ascertain the truth was for LegCo to appoint a select committee. Otherwise, the consequence would be serious as the matter involved the suppression of freedom of speech by means of resources allocation.

46. Mr Ronny TONG shared the views of Mr LEE Cheuk-yan on the limitations of the Panel meeting in ascertaining the truth, and stressed that the academics attending the special meeting had expressed grave concern about providing information in the absence of legal immunity. He pointed out that many cases of Government interference with academic freedom had been cited by the academics. As such, LegCo had the duty to investigate immediately the matter which was beyond the narrow scope of work of the Commission and for which huge amount of costs would be involved in the legal proceedings. Mr TONG added that Members should not tolerate the continuing attempts of the Administration to undermine the core value of Hong Kong in maintaining academic freedom.

47. Mr Albert CHENG agreed with Mr Ronny TONG. Mr CHENG said that it was understandable for the academics to have to consider the consequence of speaking out in the absence of legal immunity. It was necessary for them to be provided with the legal immunity so that they could speak out without worrying about the threat of possible legal actions. He considered it impractical to suggest that the academics could choose not to

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disclose the names of persons concerned when providing information. Mr CHENG further said that he supported the appointment of a select committee to inquire into the matter, but he had no particular views on the timing for its appointment.

48. Dr Fernando CHEUNG said that the academics who spoke out faced not only the possible legal consequences but also the risk of losing their jobs and hence families' livelihood. Dr CHEUNG quoted a report about some 100 staff of the Community College of the City University of Hong Kong (CityU) having been informed recently that their superannuation status would be terminated and their employment would henceforth be on a short-term contract basis. According to the CityU staff union, such action was taken by the CityU Management in response to the UGC's request for reducing the number of staff on superannuation terms. Dr CHEUNG said that the employment of academic staff on superannuation terms or otherwise would have implications on academic freedom but such cases would not be covered by the Commission's inquiry. Dr CHEUNG stressed the importance of safeguarding academic freedom, and the need for LegCo to discharge its duty by appointing a select committee to investigate into and establish the severity and extent of the problem.

49. Mr LEUNG Kwok-hung shared the view that the appointment or otherwise of a select committee was unrelated to the impending CE election. However, he considered that it would impact on the authority of the Government. Mr LEUNG said that the crux of the issue was whether LegCo had the responsibility to monitor the work of the Administration under any circumstances. If the answer was in the affirmative, he did not see any point in waiting for the completion of the inquiry by the Commission. Moreover, the matter would have less public attention by then.

50. Ms Emily LAU expressed her disagreement with Mr Abraham SHEK. She said that LegCo had established a mechanism to provide legal immunity to persons who provided evidence to committees authorized to conduct inquiries. Ms LAU opined that it was impracticable not to name the relevant persons involved in allegations if the full picture of the matter was to be unveiled. Ms LAU appealed to Members to support the appointment of a select committee and live up to public expectation on LegCo in monitoring the work of the Administration.

51. Mr Abraham SHEK reiterated that he supported academic freedom and freedom of speech. As such, he supported the scheduling of another meeting of the Panel in April 2007 to receive further views from persons and organizations. He remained of the view that it was appropriate to await the completion of the Commission's inquiry before deciding on the way forward.

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52. Dr YEUNG Sum said that as the teaching staff of a university, he had particularly strong views about academic freedom and institutional autonomy. Dr YEUNG referred Members to the four concrete cases of interference by Government officials quoted by the academics attending the special meeting, as detailed in paragraphs 6 and 7 of the Panel's report to the House Committee. Dr YEUNG said that given the severity of the allegations, he did not see any justification for delaying the appointment of a select committee.

53. Dr KWOK Ka-ki said that if Members genuinely supported academic freedom, they should support the appointment of a select committee. Dr KWOK further said that the inquiry by the proposed select committee would be open to public scrutiny and there could not be predetermined conclusions. He appealed to Members to support the appointment of the select committee to find out the truth.

54. Mr Martin LEE and Ms Audrey EU reiterated the legitimate concern of academics about providing information in the absence of legal immunity as their jobs and livelihood might be jeopardized. Ms EU further said that apart from the provision of legal immunity and the powers to summons persons to provide evidence, the operation of a select committee was different from that of a Panel in that a report would be produced by the former after the completion of work whereas the latter would only produce minutes of meetings for the record.

55. Miss TAM Heung-man said that as a Public Accounts Committee (PAC) member, she and other PAC members considered it important to allow more persons to provide information in order to ascertain the truth. Miss TAM considered that the same attitude should be adopted by Members in handling the matter in question, and Members should lend support to the proposal for appointing a select committee, which had a different scope of work. Miss TAM further said that LegCo had both the responsibility and the means to conduct a thorough and independent investigation into the matter.

56. Ms Margaret NG said that the legal immunity provided under Cap. 382 was for safeguarding the freedom of expression not just of Members but also persons summonsed to provide information to LegCo. With such protection, the persons summonsed could speak freely without worrying about the legal consequences. Given that concrete cases had been provided to substantiate the allegations of Government interference with the academic freedom, Ms NG queried the need for further information before deciding whether to support the appointment of a select committee.

57. Mr Abraham SHEK reiterated that it was appropriate to conduct the Panel meeting in April 2007 to receive more information and await the completion of the Commission's report before deciding on the further actions to be taken. He said that the Administration should also be given an opportunity

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to respond. Mr SHEK clarified that he had not ruled out the possibility of appointment of a select committee after Members had considered the Commission's report.

58. Mr CHEUNG Man-kwong said that it was CE who was quoted as saying that the matter was related to the CE election. Mr CHEUNG was of the view that the appointment of the Commission by CE had forestalled the appointment of a select committee. If not for the appointment of the Commission, it would be difficult for Members to reject the proposal for appointing a select committee immediately. Mr CHEUNG confirmed that he had advised the attending academics at the special meeting to tell the truth with no fear. However, the academics had indicated that they were afraid to speak out. It was thus necessary to appoint a select committee so that persons concerned could be covered by legal immunity.

59. Mr Martin LEE said that by appointing the Commission, CE had successfully avoided the need for him to comment on the allegations. Mr LEE pointed out that the issue in question was the cost of possible legal actions should persons come forward to provide information in the absence of legal immunity. Mr LEE further said that if Members really wanted to receive more information concerning Government interference with academic freedom, then a select committee should be appointed to encourage persons to provide information with the legal protection.

60. The Chairman put to vote the proposal that a select committee be appointed by LegCo to inquire into matters concerning infringement with academic freedom and institutional autonomy. The result was: 21 Members voted in favour of the proposal, 30 Members voted against the proposal and one Member abstained. The proposal was not supported.

VIII. Any other business

61. There being no other business, the meeting ended at 4:21 pm.